

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

THE FLAG CO.,

CV 05-1194-HU

Plaintiff,

ORDER

v.

BILL MAYNARD, STEVE ADAMS, and  
RONALD THOMAS, a/k/a RONALD  
ROTHSTEIN

Defendants.

MARSH, Judge:

On January 24, 2005, Magistrate Judge Hubel issued a Findings and Recommendation that defendants' motions to dismiss plaintiff's second amended complaint for failure to state a claim (#65 and #67) should be denied. Defendants have filed timely objections and the matter is now before me pursuant to

28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b) on de novo review. See 28 U.S.C. § 636(b)(1)(C); Bhan v. NME Hospitals, Inc., 929 F.2d 1404, 1415 (9th Cir. 1991).

Plaintiff asserts separate RICO claims based on 18 U.S.C. §§ 1962(c) and (d). He alleges defendants participated in a "massive fraud scheme . . . to deceive innocent business owners throughout the U.S. into purchasing their 'blast fax' services (a 'blast fax' is a large number of unsolicited facsimile advertisements sent to potential customers throughout the nation)." Pl.s' Second Amended complaint, ¶ 2.

Defendants moved to dismiss for failure to state a claim, asserting numerous shortcomings in plaintiff's pleading. Judge Hubel addressed all of the issues raised by defendants, applied the proper standard of review, and denied the motions.

Finding no error in the Findings and Recommendation (#78), I adopt them as my own. Accordingly, the motions to dismiss of defendants Maynard and Adams (#65) and defendant Thomas (#67) are **DENIED.**

IT IS SO ORDERED.

DATED this 17 day of April, 2006.

/s/ Malcolm F. Marsh  
 Malcolm F. Marsh  
 Senior United States District Judge

